

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

CHARLES RICHARD DAVIS
TX-1322171-R

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DOCKETED COMPLAINT NO. 08-054

AGREED FINAL ORDER

On this the 21st day of August, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Charles Richard Davis (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Charles Richard Davis neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Charles Richard Davis is a state certified residential real estate appraiser, holds certification number TX-1322171-R, and has been certified by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about September 18th, 2007, the Respondent appraised real property located at 5305 Nett St. B, Houston, Texas 77007-3210.
4. On or about November 27th, 2007, the Complainant, Tamela Campion with WaMu Appraisal Quality Assurance, filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report that contained various deficiencies.

5. On or about December 10th, 2007, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent violated the record keeping provisions of the Ethics Rule by not maintaining a complete work file;
- b) Respondent failed to identify and report the site description adequately by misrepresenting the gross living area square footage and his floor plan sketch is incorrect and inconsistent with the photographs in the report and the MLS photographs;
- c) Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
- d) Respondent failed to provide any supporting basis, rationale or data for his site value determination;
- e) Respondent failed to provide any support his \$200,000.00 site value determination and analysis;
- f) Respondent failed to collect, verify, analyze, and reconcile the cost new of improvements;
- g) Respondent failed to employ recognized methods and techniques in his cost approach correctly;
- h) Respondent failed to employ recognized methods and techniques in his sales comparison approach correctly and did not collect, verify, analyze and reconcile comparable sales data adequately;
- i) Respondent failed to explain and support the exclusion of the Income Approach;
- j) Respondent failed to disclose and analyze the property's prior listing of \$319,000.00 current as of his appraisal report and reconcile it to his final market value determination of \$639,000;
- k) Respondent failed to disclose and analyze a prior sale of the property that occurred 10 months prior to his appraisal report; and,

- l) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report.

7. Respondent omitted material facts and made material misrepresentations in his appraisal report as detailed above.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535 (Vernon 2007).

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Standards: 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 2-2(b)(viii); 1-5(a) & 2-2(b)(viii); 1-6(a) & (b) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts and making material misrepresentations.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have his certification suspended for twelve months with this suspension being fully probated under the following conditions:
 - i. During the entire twelve month probation period Respondent shall not sponsor any new appraiser trainees;
 - ii. Respondent shall timely comply with all of the terms of this Agreed Final Order
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 7 classroom-hour course in mortgage fraud or red flags;
 - i. No examination shall be required for this course;
- d. Pay to the Board an administrative penalty of \$500.00, which shall be fully probated under the condition that Respondent timely comply with all of the terms of this Agreed Final Order; and,

- e. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518, including, but not limited to, revocation of the above-noted probation.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

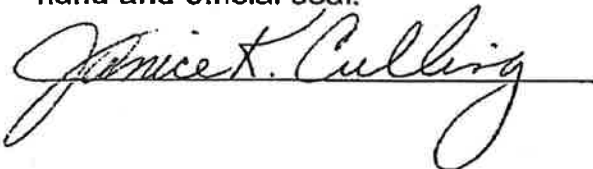
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

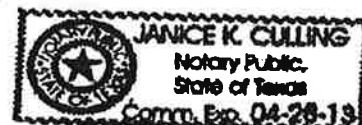
Signed this 25th day of JUNE, 2009.


CHARLES RICHARD DAVIS


TED WHITMER, ATTORNEY FOR
RESPONDENT

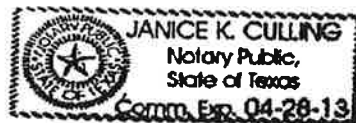
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 25th day of June, 2009, by CHARLES RICHARD DAVIS, to certify which, witness my hand and official seal.





Notary Public Signature

Janice K Culling
Notary Public's Printed Name



Signed by the Commissioner this 21st day of August, 2009.

[Signature]
Loretta DeHay, Interim Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21st day of August, 2009.

[Signature]
Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board